

CPYRGHT

Another Lesson in Due Process

After determining that a man and woman accused as Soviet spies were unable to pay the costs of their defense, Federal Judge Mishler appointed a former assistant U. S. attorney to represent them.

The assignment is something less than a ripe legal plum for the new counsel and there is at least room for argument that trials of spies have farcical aspects, no matter on which side of the Iron Curtain they are convened.

Just under five years ago, however, another judge of Brooklyn Federal Court appointed another attorney to defend another accused spy. The defendant was Col. Rudolph I. Abel and his counsel was James B. Donovan.

Donovan presented a distinguished defense, based on meaningful, legal issues. He fought the case up to the Supreme

Court, where Abel's conviction was narrowly upheld, 5-4. Donovan's unflagging energies constituted a stirring demonstration of what is known constitutionally as due process of law.

It seems clear that Donovan's efforts had much to do with his later success in negotiating the release of U-2 pilot Francis Gary Powers in a swap for Abel and, still later, in the release of many Cuban invasion prisoners. But, as he said after the Supreme Court ruling:

"The very fact that Abel has been receiving due process of law in the United States is far more significant, both here and behind the Iron Curtain, than the particular outcome of the case."

The observation is worth remembering as the new spy trials are convened.